

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CITIZENS FOR EQUAL)	
PROTECTION, INC., et al.,)	4:03CV3155
)	
Plaintiffs,)	
)	
vs.)	ORDER
)	
ATTORNEY GENERAL JOHN C.)	
BRUNING, et al.,)	
)	
Defendants.)	

This matter is before the court on plaintiffs' motion for attorney fees and costs, Filing No. 76. The grounds for this motion are the plaintiffs' adjudicated status as prevailing parties under this court's order, dated May 12, 2005, Filing No. 71, and the court's award of attorney fees in this case pursuant to 42 U.S.C. § 1988. The court has carefully reviewed the evidence, record, briefs in support and opposition, and the relevant case law. This court concludes that attorney fees and costs should be granted in this case in the amount requested by the plaintiffs.

The plaintiffs contend that as the prevailing party it is entitled to receive an award of attorney fees. The total amount of attorney fees for which payment is requested in full is \$156,960.00 and costs in the amount of \$271.70. Plaintiffs state that the "hours and costs extended by plaintiffs' counsel are reasonable and were necessary to this action. In the exercise of billing judgment, plaintiffs' counsel have excluded a large percentage of their hours and costs from billable amounts." Filing No. 76. Defendants have responded stating that they do not object to the amounts claimed by plaintiffs in the motion.¹ Filing No. 80.

¹ While not objecting to the amount sought by the plaintiffs for attorney fees and costs, defendants again object to the court's ruling on the merits of the case, which is not an issue currently before this court.

The decision whether to award attorney fees is left to the sound discretion of the trial court. *Hanig v. Lee*, 2005 WL 1661427 (8th Cir. 2005); *Harmon v. City of Kansas City*, 197 F.3d 321, 329 (8th Cir. 1999). The beginning point for determining the attorney fees is the lodestar, which is determined by multiplying the number of hours reasonably expended by the reasonable hourly rate. *Fisk v. St. Cloud Univ.*, 285 F.3d 849, 851 (8th Cir. 2002). In making this award, the court has considered the number of hours expended, complexity of issues, overall reasonableness, skill needed of the lawyers, customary fees, results obtained, undesirability of the case, and the fact that the defendants have no issue with the amount of the award. See *Hensley v. Eckerhart*, 461 U.S. 424, 430, n.3 (1983); *Winter v. Cerro Gordo County Conserv. Board*, 925 F.2d 1069, 1074 n.8 (8th Cir. 1991). Further, the court has considered the amount already discounted by the plaintiffs. The court concludes that attorney fees should be granted in this case in the amount requested by the plaintiffs.

THEREFORE, IT IS ORDERED that the plaintiffs' motion for attorney fees in the amount of \$156,960.00 and costs in the amount of \$271.70, Filing No. 76, is granted.

DATED this 1st day of August, 2005.

BY THE COURT

s/ Joseph F. Bataillon
United States District Judge